



4191-02U

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2017-0016]

Rescission of Social Security Ruling 91-3p: Policy Interpretation Ruling Title II: Determining Entitlement to Disability Benefits for Months Prior to January 1991 For Widows, Widowers and Surviving Divorced Spouses Claims

AGENCY: Social Security Administration.

ACTION: Notice of rescission of Social Security Ruling, 91-3p.

SUMMARY: In accordance with 20 CFR 402.35(b)(1), the Acting Commissioner of Social Security gives notice of the rescission of Social Security Ruling (SSR) 91-3p.

DATES:

Effective Date: This rescission will be effective [INSERT PUBLICATION DATE].

FOR FURTHER INFORMATION CONTACT: Chris Grovich, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 966-1696 or TTY 410-966-5609, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION: Through SSRs, we make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security

income, and special veterans benefits programs. We may base SSRs on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of General Counsel, or other interpretations of the law and regulations.

Widows, widowers, and surviving divorced spouses (hereinafter referred to as widows) who are disabled and between age 50 and 60 may be entitled to disability insurance benefits based on a deceased spouse's earnings record. We sometimes refer to these benefits as disabled widows' benefits or widows' disability benefits. Before Congress enacted the Omnibus Budget Reconciliation Act (OBRA) of 1990,¹ we used a special standard to determine disability in claims for disabled widows' benefits that differed from the standard we used in other title II disability claims. Section 5103 of OBRA² amended the Social Security Act (Act) by making the standard used to determine disability for disabled widows' benefits payable in months after December 1990 identical to the standard used in other title II disability claims. However, we still used the special pre-OBRA standard to determine disability for disabled widows' benefits payable for months prior to January 1991.³

Between 1989 and 1991, several United States Courts of Appeals found that the pre-OBRA standard we used was underinclusive in its adjudicatory criteria, and that the Act required consideration of functional limitations in determining entitlement to disabled widow's benefits. As a result of those court decisions, we reevaluated our interpretation of the pre-OBRA standard and published SSR 91-3p, which directed adjudicators to apply the interpretation of the pre-

¹ Pub. L. 101-508, 104 Stat. 1388.

² 104 Stat. at 1388-251.

³ Section 5103(e) of Public Law 101-508, 104 Stat. at 1388-253.

OBRA standard set out in the SSR when determining disability for disabled widows' benefits payable for months prior to January 1991.

By statute, entitlement to disabled widows' benefits cannot be established more than 12 months prior to the filing of an application for such benefits.⁴ We are rescinding SSR 91-3p as obsolete because a new application for disabled widows' benefits cannot establish entitlement to these benefits prior to January 1991, and we have no pending applications that involve entitlement to disabled widows' benefits for months prior to January 1991.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Retirement Insurance, and 96.004 Social Security-Survivors Insurance)

Nancy A. Berryhill
Acting Commissioner of Social Security

⁴ 42 U.S.C. § 402(j)(1)(A).

